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Brian Feinberg

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EXAMINER

PARRA, OMAR S

ART UNIT

PAPER NUMBER

2421

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/734,496	<b>Applicant(s)</b> FEINBERG ET AL.	
	<b>Examiner</b> OMAR PARRA	<b>Art Unit</b> 2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,6,7 and 10-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-3,6,7 and 10-21 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Response to Arguments***

1. Applicant's arguments filed 10/13/2008 have been fully considered but they are not persuasive.

In response to applicant's remarks:

The applicant argues that *"the Examiner concedes that Pandya, Jones and Vaid fail to teach or suggest the above limitation [forwarding the response message to a responsible entity in a targeted the head- end selected from a plurality of head-ends, wherein the received response message from the particular remote device includes a command to adjust at least one parameter of a particular operation performed at the targeted head-end]"*, Applicant's remarks, page 10 first paragraph. To this matter, the examiner respectfully disagrees.

As indicated in the previous Office Action (page 4, lines 6-9), the examiner indicated that the limitation of forwarding a response message from the particular remote device includes a command to adjust at least one parameter of a particular operation performed at the head-end" was not explicitly taught by Pandya. In other words, although Pandya teaches that monitoring and control features can be performed on the remote device or on separate devices for multiple devices (col. 7 lines 27-39, lines 45-58 and line 67-col. 8 line 6; col. 9 lines 66-col. 10 line 7), and that messages can be sent to IT personnel (col. 12, lines 44-53; col. 13 lines 9-42; col. 18 line 45-col. 19 line 31), Pandya did not explicitly teach that those message were commands to

Art Unit: 2421

adjust parameters of one of the multiple monitored devices. That was the reason Nouri was brought in. Nouri teaches that the message contains are commands to adjust or fix parameters of the monitored device or headend. The capabilities of monitoring multiple devices from a remote unit and send them messages are still contained in the text presented above in the Pandya reference.

The applicant argues that *"Nouri does not need to forward the message to a responsible entity at a targeted headend because the targeted headend in Nouri is directly coupled to the remote client via the modem connection"*, Applicant's remarks, page 10 second paragraph. To this matter, the examiner respectfully disagrees.

As discussed above, Nouri was brought in for teaching that the message contains are commands to adjust or fix parameters of the monitored device or headend. The capabilities of monitoring multiple devices from a remote unit and send them messages are still contained in the text presented above in the Pandya reference.

Therefore, the examiner respectfully believes that the art of record still cover applicant's invention as claimed.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims **1-3, 6, 7, 10-21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pandya et al. (hereinafter 'Pandya', Patent No. 6,671,724) in view of Nouri et al. (hereinafter 'Nouri', Patent No. 6,065,053) in view of Jones et al. (hereinafter 'Jones', Patent No. 6,687,335) and in further view of Vaid et al. (hereinafter 'Vaid', Patent No. 6,502,131).

Regarding claims 1, 15, 16, 19 and 20, Pandya teaches a method for monitoring, from a remote location comprising a monitor and control unit, operations of a head-end in an information distribution system (**col. 4, lines 40-61**), the method comprising:

receiving at the monitor and control unit status from the head-end relating to operations performed at the head-end (**col. 4, lines 30-46; col. 6, lines 53-59; where the control points of the headend may reside separate devices, col. 7, lines 27-39, lines 45-58 and line 67 – col. 8, line 6**);;

displaying, via a graphical user interface (**GUI**), at the monitor and control unit the status from the head-end relating to operations performed at the head-end (**col. 7, lines 55-58 and Figs. 13-15. Also, note the "STATUS" tab in the GUIs shown in the Figures and col. 4, lines 40-46; col. 6, lines 42-66; col. 12, lines 44-66; col. 13, lines 9-30 and col. 20, line 39 – col. 21, line 54**);

providing, via the graphical user interface, a user configurable menu to define error conditions (**col. 6, lines 42-66; col. 8, lines 38-43 and 57-64; col. 12, lines 44-66; col. 13, lines 9-30 and col. 20, line 39 – col. 21, line 54**;

receiving identities of a plurality of remote devices designated to receive status from the head-end via the monitor and control unit **(profiles and parameters including devices identities, col. 11, lines 43-45 and col. 15, lines 6-22);**

receiving an indication of capabilities of each remote device of the plurality of remote devices designated to receive status **(col. 11, lines 43-45 and col. 15, lines 6-22);**

forwarding at least a subset of the received status from the monitor and control unit. to the plurality of remote devices, wherein status are forwarded to each remote device of the plurality of remote devices in conformance with the indicated capabilities **(col. 7, lines 8-58; col. 19, lines 29-31; also see col. 9, line 66 – col. 10, line 7; col. 13, lines 9-15 and 20-23; col. 18, line 45 – col. 19, line 10; and col. 19, lines 7-31, where, in order for the system to function properly, it is inherent that all the devices have to be in conformance with the indicated capabilities);**

On the other hand, although Pandya teaches that the control points respond to the agents (or vice versa), given that can be on separated devices **(col. 5, lines 45-56; col. 6, lines 60-66; col. 7, lines 27-58; col. 13, lines 20-36; col. 14, lines 2-4 and col. 20, line 39 – col. 21 line 38)** and that monitoring and control features can be performed on the remote device or on separate devices for multiple devices (col. 7 lines 27-39, lines 45-58 and line 67-col. 8 line 6; col. 9 lines 66-col. 10 line 7), and that messages can be sent to IT personnel (col. 12, lines 44-53; col. 13 lines 9-42; col. 18 line 45-col. 19 line 31) Pandya does not explicitly teach that the response message is forwarded to from the particular remote device to a responsible entity in a targeted

Art Unit: 2421

headend selected from a plurality of headends, wherein the received response message from the particular remote device includes a command to adjust at least one parameter of a particular operation performed at the targeted head-end.

However, in an analogous art, Nouri teaches a microprocessor network (102, Fig. 1; col. 7 lines 62-65; a remote interface 104), independent of the server it monitors and controls (col. 3 lines 55-61; col. 5 line 66-col. 6 line 13; col. 10 lines 59-61; col. 12 lines 50-60), that is able to send information about the performance of the server and presented in a user interface (col. 5 lines 13-30; col. 6 lines 13-35), from which a remote computer can adjust at least one parameter of a particular operation of the server by sending a command to the microprocessor network 102. This response is sent to the server as a command and with it; at least one parameter of the server is adjusted (col. 5 lines 19-53; col. 6 lines 36-52; col. 19 lines 14-26; col. 21 lines 11-54; col. 24 line 33-col. 25 line 15).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Pandya's invention with Nouri's feature of forwarding the remote device message to the headend for the benefit of remotely controlling the server through a command; instead of advising surrounding network elements to not communicating with the faulty server until it performs normally by itself.

Additionally, although the combined teachings of Pandya and Nouri teach that a visual alert can be set from the user interface when a server is having a faulty component (Nouri: 1010, Fig. 19; col. 24 lines 33-47), they do not explicitly teach that the alert is an audible alert.

However, in an analogous art, Jones teaches or provides evidence that it is notoriously well known in the art of monitoring or control systems, which incorporate the use of a graphical user interface, to provide an option for activating audio/visual alerts when error conditions are detected for the advantage of immediately informing or notifying a user of the system or service where a problem or error condition has been detected (see col. 2, lines 60-65 and col. 7, lines 61-66).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Pandya and Nouri's invention with the additional teaching of Jones for the benefit of immediately informing or notifying a user of the system or service where a problem or error condition has been detected (see col. 2, lines 60-65 and col. 7, lines 61-66).

Lastly, the combined teachings of Pandya, Nouri and Jones teach all the limitations as described above. On the other hand, the combined teachings of Pandya and Nouri do not explicitly teach that the graphical display includes at least a video bit rate.

However, in an analogous art, Vaid teaches a graphical interface for monitoring the status of network conditions such as flow of information coming on a server, etc (col. 2 line 46- col. 3 line 8), where the information can be of any type such as video, data or voice (col. 1 lines 51-60; col. 8 lines 22-42). Furthermore, Vaid teaches that the interface is able to display the information rate of the monitored server and the controlled features of it such as bandwidth, bitrates, time for connection, etc (Figs. 10-



Art Unit: 2421

13, where the bit rate is displayed graphically on a plot Bandwidth against time, col. 21 lines 24-40).

Therefore, it would have been obvious to an ordinary skilled in the art at the time of the invention to have modified Pandya, Nouri and Jones' invention with the feature of displaying the video bit rate as taught by Vaid for the purpose of not having to read long logs of text while a dynamic diagram can show it and in that way, giving a user-friendly display for the operator.

Regarding claims 2 and 21, the combined teachings of Pandya, Nouri, Jones and Vaid teach a method further comprising:

receiving indications of error conditions relating to the one or more operations **(Pandya: col. 12, lines 43-52; col. 13, lines 9-15; and col. 18, line 45 - col. 19, line 31); and**

forwarding one or more alert messages to the one or more remote devices in response to receiving the indications when the audible alert is activated **(Official Notice is taken by examiner, however, it was provided as proof of being well known in the art in Jones reference: col. 2, lines 60-65 and col. 7, lines 61-66, of record).**

Regarding claim 3, the combined teachings of Pandya, Nouri, Jones and Vaid teach a method further comprising: polling a plurality of head-ends for status relating to the operations of each head-end **(Pandya: col. 18, lines 45-67).**

Art Unit: 2421

Regarding claim 6, the combined teachings of Pandya, Nouri, Jones and Vaid teach a method, wherein the indicated capabilities for each remote device is indicated as text, graphics, or a combination thereof (**Pandya: col. 13, lines 9-23 and col. 19, lines 25-31**).

Regarding claim 7, the combined teachings of Pandya, Nouri, Jones and Vaid teach a method further comprising:

receiving an indication of a particular reporting level for each remote device designated to receive status, and wherein status are forwarded to each of the one or more remote devices in conformance with the indicated reporting level (**Pandya: col. 13, lines 9-23 and col. 19, lines 25-31, where the in conformance with indicated reporting level is met by priorities that may be assigned to users or groups of users, as well as configuration of various settings relating to users, applications and resources associated with a particular control point**).

Regarding claim 10, the combined teachings of Pandya, Nouri, Jones and Vaid teach a method, wherein the received status includes status relating to encoding operations performed at the headend (**Pandya: col. 11, line 16 – col. 13, line 29**).

Regarding claim 11, the combined teachings of Pandya, Nouri, Jones and Vaid teach a method, wherein the status relating to the encoding operations includes status for one or more buffers used to store encoded data at the head-end (**Pandya: col. 11, line 24 – col. 12, line 29**).

Regarding claim 12, the combined teachings of Pandya, Nouri, Jones and Vaid teach a method, wherein the received status includes status relating to multiplexing operations performed at the head-end (**Pandya: col. 14, line 45 – col. 16, line 28**).

Regarding claim 13, the combined teachings of Pandya, Nouri, Jones and Vaid teach a method, wherein the received status includes status relating to a particular transport stream transmitted from the head-end (**Pandya: col. 9, line 66 - col. 11, line 15**).

Regarding claim 14, the combined teachings of Pandya, Nouri, Jones and Vaid teach a method, wherein the received status include bit rates for a plurality of types of data being provided from the head-end (**Pandya: col. 11, line 36 – col. 12, line 29**).

Regarding claim 17, the combined teachings of Pandya, Nouri, Jones and Vaid teach a method, wherein at least one of the plurality of remote devices is a wireless device (**Pandya: col. 4, lines 62-67 and col. 7, lines 33-49**).

Regarding claim 18, the combined teachings of Pandya, Nouri, Jones and Vaid teach a method, wherein the status and messages are forwarded via a standard messaging protocol (**Pandya: col. 2 lines 50-67; col. 7 lines 33-49**).

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OMAR PARRA whose telephone number is (571)270-1449. The examiner can normally be reached on 9-6 PM (M-F, every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2421

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OP

/Hunter B. Lonsberry/  
Primary Examiner, Art Unit 2421